

*Deary*

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 89-483-E - ORDER NO. 89-920  
SEPTEMBER 26, 1989

IN RE: Application of Carolina )  
Power & Light Company for ) ORDER GRANTING AUTHORITY  
Authority to Issue and ) TO ISSUE AND SELL ADDITIONAL  
Sell Securities ) SECURITIES (COMMON STOCK)

This matter comes before the Public Service Commission of South Carolina (the Commission) upon an Application of Carolina Power & Light Company (the Company) filed on September 7, 1989, requesting authority to issue and sell additional common stock.

FINDINGS OF FACT

1. The Company's correct name and post office address is Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602; and the name and post office address of its attorney is Adrian N. Wilson, Post Office Box 1551, Raleigh, North Carolina 27602.

2. The Company is a corporation organized and existing under the laws of the State of North Carolina, with its principal office at 411 Fayetteville Street, Raleigh, North Carolina, where it is engaged in the business of generating, transmitting, delivering and furnishing electricity to the public for compensation.

3. The Company's capital stock outstanding at June 30, 1989, consisted of Common Stock with a stated value of \$1,620,765,389 and Preferred Stock having a stated value of \$383,118,400. As of June 30, 1989, the retained earnings of the Company were \$730,797,692. The closing price for the Company's Common Stock on the New York Stock Exchange on September 5, 1989, was \$43.25 and the book value per share of such Common Stock at July 31, 1989, was \$29.79.

The Company's existing long-term debt at June 30, 1989, amounted to principal amounts of \$2,360,250,000 First Mortgage Bonds and \$341,996,946 in other long-term debt. The First Mortgage Bonds were issued under and pursuant to an Indenture of Trust dated as of May 1, 1940, duly executed by the Company to Irving Trust Company of New York, as Corporate Trustee, and Frederick G. Herbst, as Individual Trustee, succeeded by Wafaa Orfy, who presently is acting as Individual Trustee, as supplemented by forty-seven Supplemental Indentures.

4. Since 1961, the Company sponsored a Stock Purchase-Savings Plan ("Plan") as an important part of its overall compensation and benefit program for its eligible employees. In 1983, the Plan was restated to add a salary reduction feature pursuant to Section 401(k) of the Internal Revenue Code ("Code"). On July 24, 1989, the Plan was again restated to become an employee stock ownership plan ("ESOP") pursuant to Section 407(d)(6) of the Employee Retirement Income Security Act of 1974 and Section 4975(e)(7) of the Code. The conversion of the Plan to an ESOP has little impact on the benefits offered to participants in the Plan

or in the administration of the Plan; however, it does provide the Company with the flexibility to fund in advance all or a portion of the amounts the Company expects to contribute to the Plan in the future. This flexibility could result in significant federal tax savings to the Company because of particular Code provisions which, under certain circumstances, allow the Company to deduct dividends paid on Company stock held by the Plan or used to repay a qualified ESOP loan.

5. Wachovia Bank & Trust Company, N.A. ("Trustee") currently serves as trustee of the Plan pursuant to a Trust Agreement between the Company and Trustee.

6. Pursuant to the provisions of its Charter and for the purposes stated in the Application, the Company proposed to issue and sell up to 7,500,000 additional shares ("Shares") of its Common Stock, without par value ("Common Stock") to the Trustee in accordance with the provisions of a Subscription Agreement substantially in the form attached to the Application as Exhibit A; provided, however, that in no event shall the aggregate sale price exceed \$300,000,000. The aggregate sale price to be received by the Company in connection with the proposed sale of the Shares will be payable as follows:

- (i) \$1,000.00 in cash or immediately available funds;  
and
- (ii) \$299,999,000.00 pursuant to a non-recourse loan ("Loan") which will constitute an "exempt loan" as defined in Section 54.4975-7(b)(1)(iii) of the Treasury Regulations, and which will be evidenced by a promissory note of the Trustee ("Promissory Note") substantially in the form attached to the Application as Exhibit B.

The price per share to be received by the Company in connection with the issuance and sale of the Shares will be not less than the closing price of the Company's Common Stock on the New York Stock Exchange on the date prior to the date of sale. Until such time as the Shares have been fully paid, the Shares will not be entitled to participate in dividends declared by the Company on its Common Stock, in accordance with Section 55-50(f) of the North Carolina Business Corporation Act.

7. The Company anticipates that the Trustee will refinance the Loan and that the Company will institute a series of open market purchases in order to reduce the number of shares of its issued and outstanding Common Stock to current levels.

8. The Company estimates that it will incur expenses in the range of approximately \$100,000 in connection with the issuance and sale of the Shares.

9. In the event the proposed issuance and sale of the Shares is not approved or is delayed, the Company may not be able to take advantage of the current availability of deductions for dividends used to repay a qualified ESOP loan.

10. The Company will file a Registration Statement with the Securities and Exchange Commission prior to the allocation of the Shares to the Plan participants' accounts pursuant to the authority requested herein and will file copies thereof in this proceeding as a Supplemental Exhibit.

CONCLUSIONS

From a review and study of the Application, its supporting data, and other information in the Commission's files, the Commission is of the opinion and so finds that the transaction or transactions herein proposed:

- (i) Are for a lawful object within the corporate purpose of the Company;
- (ii) Are compatible with the public interest;
- (iii) Are necessary and appropriate for and consistent with the proper performance by the Company of its service to the public as a utility;
- (iv) Will not impair the Company's ability to perform its public service; and
- (v) Are reasonably necessary and appropriate to provide adequate funds for such corporate purposes.

The Commission approves the Application, in part, because it feels that a properly administered employee stock ownership plan provides potential incentives for increased employee efficiency and productivity which could benefit South Carolina ratepayers over time.

The Commission also approves this Application, in part, on the basis that at an appropriate time any net benefits realized by the Company through this particular transaction or any related subsequent transactions be shared with the ratepayers of South Carolina.

The approval of this Application does not bind the Commission as to the ratemaking treatment of the following items including, but not limited to, revenues, expenses, losses, or effects on the

cost of debt or equity capital. Any such treatment for ratemaking purposes shall be addressed in the context of a general rate case proceeding.

Approval of this Application does not constitute approval of any subsequent refinancing, with a Company guarantee, of the Loan. The Commission may require a hearing for consideration of any subsequent refinancing of the Loan.

IT IS THEREFORE ORDERED.

1. That Carolina Power & Light Company be, and hereby is authorized to issue and sell up to 7,500,000 additional shares of Common Stock to Wachovia Bank & Trust Company, N.A., as Trustee (provided that in no event shall the aggregate sale price exceed \$300,000,000), and to execute and deliver such instruments, documents, and agreements as shall be necessary or appropriate to effectuate such transaction or transactions.

2. That the Commission approves the Application, in part, because it feels that a properly administered employee stock ownership plan provides potential incentives for increased employee efficiency and productivity which could benefit South Carolina ratepayers over time.

3. That the Commission approves this Application, in part, on the basis that at an appropriate time any net benefits realized by the Company through this particular transaction or any related subsequent transactions be shared with the ratepayers of South Carolina.

4. That the approval of this Application does not bind the


Commission as to the ratemaking treatment of the following items including, but not limited to, revenues, expenses, losses, or effects on the cost of debt or equity capital. Any such treatment for ratemaking purposes shall be addressed in the context of a general rate case proceeding.

5. That approval of this Application does not constitute approval of any subsequent refinancing, with a Company guarantee, of the Loan.

6. That the Commission may require a hearing for consideration of any subsequent refinancing of the Loan.

7. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)